



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,100	11/29/2001	A. Roger Guillemette	445-008969-US(J01)	6244

2512 7590 06/30/2004

PERMAN & GREEN
425 POST ROAD
FAIRFIELD, CT 06824

EXAMINER

EASHOO, MARK

ART UNIT

PAPER NUMBER

1732

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

317

Office Action Summary	Application No.		Applicant(s)	
	09/997,100		GUILLEMETTE, A. ROGER	
	Examiner		Art Unit	
	Mark Eashoo, Ph.D.		1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 15-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Restriction/Election

Applicant's election without traverse of claims 1-14 and 18-19, group I, in the reply filed on 23-APR-2004 is acknowledged.

Claims 15-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected claim grouping, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 23-APR-2004.

Priority

The priority data on page 1, line 1 of the specification is missing. Applicant is requested that applicant update the priority data and insert it on page 1, line 1 of the instant specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 18-19 are rejected under 35 USC 102(b) as being unpatentable over Kragle et al. (US Pat. 5,692,271).

Regarding claim 18: Kragle et al. teaches the claimed extrusion die, comprising: an upstream inlet (element 23) and downstream outlet (element 27), whereby a specific profile is extruded (Fig. 2); a plurality of flow regions that form part of the specific profile (Fig. 2, element 27); and a plurality of axial assembled distribution modules having an array of distribution channels wherein the number of channels increase from the upstream module to an adjacent downstream module to provide at least one flow channel to each of the plurality of flow regions (Fig. 2, elements 22, 24 and 27).

Regarding claim 19: Kragle et al. further teaches that the number of channels in an array doubles in number from an upstream module to an adjacent downstream module (Fig. 2, elements 23, 29a, and 29b).

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-5 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,533,565 to Guillemette. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Regarding claims 1-2: Claim 1 of Guillemette teaches substantially all of the limitations of instant claims 1 and 2 with only a few differences in wording and breadth. For example, Guillemette, claim 1, recites a single distribution module which meets the broader limitation of instant claim 1 "at least one distribution module". Similarly, the section wherein Guillemette claim 1 recites "selected regions of said outlet cross section" meets the instant claim 1 limitation of "wherein said die system outlet cross section is divided into preselected flow regions" since this is substantially only a difference in wording and not in scope.

Regarding claims 3-5: Claims 2-4 of Guillemette teach substantially all of the limitations of instant claims 3-5, respectively.

Claims 6-9 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 5-7 of U.S. Patent No. 6,533,565 to Guillemette. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Regarding claims 6-7: Claim 5 of Guillemette teach substantially all of the limitations of instant claims 6 and 7, respectively, with only a few differences in wording and breadth.. For example, Guillemette, claim 5, recites a die wherein instant claims 6-7 do not. However, since the preamble of instant claim 6 recites "an extrusion die system" it is inherent that a die of some sort is included therein.

Regarding claims 8-9: Claims 6-7 of Guillemette teach substantially all of the limitations of instant claims 8-9 respectively.

Claims 10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 5-7 of U.S. Patent No. 6,533,565 to Guillemette in view of Kragle et al. (US Pat. 5,702,659). Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Art Unit: 1732

Regarding claim 10: Claim 5 of Guillemette teach substantially all of the limitations of instant claim 10 with only a few differences in wording and breadth.. For example, Guillemette, claim 5, recites a die wherein instant claim 6 does not. However, since the preamble of instant claim 6 recites "an extrusion die system" it is inherent that a die of some sort is included therein.

Guillemette, claim 5, does not teach that the number of channels in an array doubles in number from an upstream module to an adjacent downstream module. However, Kragle et al. teaches that the number of channels in an array doubles in number from an upstream module to an adjacent downstream module (Fig. 2, elements 23, 29a, and 29b). Kragle et al. and Guillemette are combinable because they are both concerned with a similar technical difficulty, namely, extrusion of products having a complex cross section. At the time of invention a person of ordinary skill in the art would have found it obvious to have doubled the number of channels in an array from an upstream module to an adjacent downstream module, as taught by Kragle et al., in the apparatus of Guillemette, and would have been motivated to do so in order to better control the feed material to a complex die configuration as suggested by Kragle et al.

Claims 11-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 8-10 of U.S. Patent No. 6,533,565 to Guillemette. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Regarding claims 11-12: Claim 8 of Guillemette teaches substantially all of the limitations of instant claims 11 with only a few differences in wording and breadth. For example, Guillemette, claim 8, recites "critical flow requirements" and "critical regions" which meets the broader limitation of instant claim 11 "predetermined flow requirements" and "flow regions". Similarly, the section wherein Guillemette claim 8 recites "constructing" first and second modules meets the instant claim 11 limitation of "constructing at least one module" and that of instant claim 12 "constructing a transition module" since this is substantially only a difference in wording or name and not in scope.

Regarding claims 13-14: Claims 9-10 of Guillemette teach substantially all of the limitations of instant claims 13-14 respectively.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached form PTO-892.

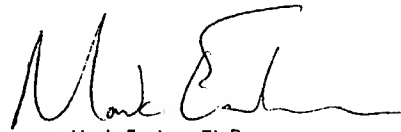
Art Unit: 1732

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Eashoo, Ph.D. whose telephone number is (571) 272-1197. The examiner can normally be reached on 7am-3pm EST, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaanni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Eashoo, Ph.D.
Primary Examiner
Art Unit 1732

25/June/04

25 June 2004
me